

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHN ACKER, et al.,

Plaintiffs,

Case No. 08-11261

vs.

Hon. Robert H. Cleland

DOEREN MAYHEW & COMPANY, et al.,

Defendants.

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**DEFENDANTS SAMJACK INVESTMENTS INC.'S,  
JOANN FOX'S AND NANCY O'RILLEY'S AMENDED MOTION TO DISMISS  
PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE 9(b) AND 12(b)(6)**

Defendants SamJack Investments, Inc. ("SamJack"), Joann Fox and Nancy O'Rilley (collectively, "SamJack Defendants"), by and through their attorneys, Foley & Lardner LLP, and pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6), move this Court for an order dismissing all counts of Plaintiffs' First Amended Complaint (the "FAC") against them. In support of their Motion, the SamJack Defendants rely on the pleadings and records on file with the Court and the reasons more fully set forth in the accompanying Brief in Support.

In compliance with Local Rule 7.1, counsel for the SamJack Defendants called counsel for Plaintiffs on April 1, 2008 to explain the basis for and seek concurrence for the relief requested in the Motion. Concurrence has not been forthcoming.

WHEREFORE, for the reasons set forth above and in the accompanying Memorandum of Law, the SamJack Defendants respectfully request that this Court dismiss Plaintiffs' First Amended Complaint against them with prejudice.

Dated: April 1, 2008

Respectfully submitted,

FOLEY & LARDNER LLP

s/ Scott Seabolt

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**PROOF OF SERVICE**

SCOTT T. SEABOLT states that on **April 1, 2008**, he caused to be served Defendants SamJack Investments, Inc.'s, Joann Fox's and Nancy O'Rilley's Amended Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6) and this Proof of Service via electronic mail addressed to:

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/s/  
\_\_\_\_\_  
SCOTT T. SEABOLT

Dated: April 1, 2008